Supreme Court, U. S.
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APPENDIX

In the Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-466

PETER J. BRENNAN, SECRETARY OF LABOR, PETITIONER

v.

WALTER BACHOWSKI

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR A WRIT OF CERTIORARI FILED ON OCTOBER 22, 1974
CERTIORARI GRANTED DECEMBER 16, 1974

In the Supreme Court of the United States

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567-896—75——1

Relevant Docket Entries

United States District Court for the Western District of Pennsylvania

Civil Action 73-954 Walter Bachowski vs. Peter Brennan, et al.

Date	Proceedings	Date. Order. Judgment No.
Nov. 7	Complaint filed	1
Nov. 7	Motion for TRO	2
Nov. 7	Motion for preliminary injunction	3
Nov. 7	Summons issued as to U.S.; summons issued as to United Steelworkers	
Nov. 12	Order entered, on proposal filed 11/9/73 granting defts oral motion made at hearing in chambers, to dismiss; motion of pltf. for TRO and Prel. Inj. denied (Dumbauld, J.)	4
Nov. 29	Notice of Appeal filed by Pltf. ($250.00 Cash Bond Posted) (Receipt 17496)	6
Dec. 4	Summons ret. served on U.S. Steel 11/29/73	7
Dec. 4	Summons ret. served on U.S. Atty 11/29/73; on U.S. Atty Gen 11/30/73 by cert. mail 11/28/73	8
Dec. 10	Transcript of injunction hearing held before Dumbauld, J. filed (Rep. J. Lilienthal)	9
1974		
Aug. 5	Opinion of U.S. Ct. of Appeals rec'd and filed vacating judgment of district court granting motion to dismiss and case remanded for further proceedings	
Sept. 17	Certified copy of judgment order issued in lieu of formal mandate rec'd from U.S. Ct. of Appeals vacating judgment of district court entered 11/2/73 and cause remanded for further proceedings. No costs (record will be returned at a later date)	
Sept. 17	Pursuant to CC of judgment order, the above entitled case is hereby reopened	
Oct. 9	Motion to enter an order directing that the deft. provide the pltf. with a specific statement of the factors upon which the pltf. relied in reaching his decision not to file suit filed by pltf.	10
Oct. 25	Order entered directing opposition submit brief in re motion for production of statement in 5 days (Dumbauld, J.)	11
Nov. 11	Statement of Secy of Labor filed	12
Dec. 20	Order entered directing that since the conditions requiring posting of cash bond have been satisfied as of 9/17/74; Clark is to return $250. to Kenneth Yablonski, Esq. (Dumbauld, J.) (Mailed 12/20/74)	13
1975		

Date 1973	
Dec. 4	Copy of Notice of Appeal, rec'd. Dec. 3, 1973, filed.
	Record, rec'd. November 30, 1973, filed.
1974	
July 26	Opinion of the Court (Seitz, Chief Judge and *Van Dusen* and Gibbons, Circuit Judges), filed.
July 26	Judgment vacating the judgment of the District Court entered November 12, 1973, and remanding the cause for further proceedings consistent with the opinion of this Court, with no costs, filed.
Aug. 16	Motion by appellee, for stay of mandate, filed. (4cc.) Service attached.
Aug. 20	Order (Van Dusen, J.) staying issuance of mandate until September 15, 1974, filed.
Aug. 23	Opposition by appellant to Motion for Stay of Mandate pending Supreme Court Review, filed. (4cc.) Service attached.
Sept. 3	Order Amending Slip Opinion of July 26, 1974, (Seitz, Ch.J., and *Van Dusen* and Gibbons Circuit Judges), filed.
Sept. 16	Certified judgment in lieu of formal mandate issued.
Sept. 16	Certified copy of order amending opinion sent to Clerk of District Court.
Sept. 25	Record and 2 supplementals returned to Clerk of District Court.
Oct. 26	Notice of filing on October 22, 1974 of petition for writ of certiorari, received from Clerk of S.C., filed. (S.C. No. 74-466).
Dec. 20	Certified copy of order dated December 16, 1974 granting petition for writ of certiorari received from Clerk of S.C., filed. (S.C. No. 74-466).

In the United States District Court for the Western District of Pennsylvania

Civil Action No. 73-954

WALTER BACHOWSKI, PLAINTIFF

v.

PETER BRENNAN, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR, AND UNITED STEEL WORKERS OF AMERICA, DEFENDANTS

Complaint for Injunctive and Declaratory Relief

1. Walter Bachowski, plaintiff, resides at 8 Cross Street, Pittsburgh, Pennsylvania within this judicial district. He is a member in good standing of the United Steel Workers of America, its District 20 and local union 1504.

2. Plaintiff brings this action as an individual union member under Title IV of the Labor Management Reporting and Disclosure Act of 1959 (29 USCA 482) (hereinafter referred to as LMRDA or the "Act").

3. Defendant Peter Brennan, (hereinafter referred to as the Secretary) is the Secretary of Labor of the United States and for the purpose of carrying out his duties maintains an office at the Federal Building, Liberty Avenue, Pittsburgh, Pennsylvania, which is within this judicial district.

4. Defendant United Steel Workers of America (Hereinafter called USWA) is a labor organization engaged in an industry affecting commerce within the meaning of Sections 3(i) and 3(j) of the Act (29 USCA 402 (i) and (j)), and has its principal office in Pittsburgh, Pennsylvania, within this judicial district.

5. This Court has jurisdiction of this action under Section 402 of the Act (29 USCA 482), Public Law 89-554 (5 USCA 702.)

6. Defendant USWA, purporting to act pursuant to and in accordance with the provisions of its Constitution held an

election for the office of District Director of District 20 USWA among its members in good standing on February 13, 1973. This election was subject to the provisions of Title IV of the Act (29 USCA 481 et. seq.).

7. District 20 USWA covers a geographical area from Erie, Pennsylvania to Pittsburgh, Pennsylvania and has approximately 75,000 members.

8. Plaintiff was a candidate for the office of District Director as was the incumbent Kay Kluz and Morros Brummitt. The election was hard fought with the large majority of the appointed staff men supporting the candidacy of the incumbent Kay Kluz.

9. On April 16, 1973, the International Tellers submitted their report in the International election declaring the result of the election in District 20 USWA to be as follows:

Kay Kluz	10,558
Walter Bachowski	9,651
Morros Brummitt	3,566

10. Pursuant to Article V, Section 21 of the Defendant USWA Constitution, the plaintiff filed a complaint with the International Executive Board of the USWA within ten days of April 28, 1973.

11. Notwithstanding the fact that the Defendant USWA had already scheduled its swearing in ceremonies for the following day, the Defendant USWA purported to conduct an investigation of and hearing concerning the plantiff's complaint on May 31, 1973. The hearing was a nullity in that it did not properly inquire into the election irregularities charged.

12. On June 1, 1973, the Defendant USWA installed the plaintiff's opponent as Director of District 20 despite the fact that the plaintiff had not been notified of any decision by the International Executive Board.

13. On June 21, 1973, the plaintiff filed a complaint with the Department of Labor at its Pittsburgh, Pennsylvania, office.

14. Pursuant to Section 601 and in accordance with Section 402 (B) of the Act (29 USCA 521, 482 (B)) the Defendant Secretary investigated said complaint.

15. On approximately September 8, 1973, at the request of the Defendant USWA, the Defendant Secretary and the Defendant USWA agreed to extend the statutory period for investigation thirty days. On October 8, 1973, again at the request

of the Defendant Union, the period was extended to November 8, 1973.

16. On November 5, 1973, the plaintiff received a phone call from the Pittsburgh office of the Defendant Secretary advising him that the Defendant Secretary had decided not to file suit to set aside the contested election in District 20 USWA. To date, the plaintiff has received no written notice of this decision nor any explanation of why the suit would not be filed.

17. Plaintiff contends that in the conduct of the aforesaid election the Defendant USWA violated its constitution and the provisions of Title IV of the Act (29 USCA 401 et. seq.) as follows:

A. Section 401(A) of the Act failed to elect by secret ballot in that many members were required or permitted to vote in such a manner that a member voting could be identified with the choice expressed.

B. Section 401(C) of the Act, Union failed to provide adequate safeguards and denied the plaintiff the right to have observers at polling places and at the counting of the ballots.

C. Section 401(E) of the Act, the Defendant Union violated its own Constitution, it denied members the right to vote without fear of reprisal, interference or penalty, and members were denied the right to vote in that elections were not conducted in at least one local.

D. Section 401(G) in that the Defendant USWA used money received as dues and assessments to promote the candidacy of the plaintiff's opponent the incumbent Kay Kluz.

18. Notwithstanding the fact that the Defendant Secretary's investigation has substantiated the plaintiff's allegations and notwithstanding the fact that the irregularities charged affected the outcome of the election the Defendant Secretary refuses to file suit to set aside the election.

19. On November 7, 1973, the plaintiff requested the Defendant Secretary and the Defendant USWA to mutually agree to extend the statutory period for filing suit to enable him to properly inquire into the Defendant Secretary's refusal. The Defendant USWA immediately refused.

20. The plaintiff has not been given a statement of reasons why the Defendant Secretary will not file suit nor has he been permitted to review the records available to the Secretary upon which his decision was made.

21. Defendant USWA has breached its duty to properly protect the plaintiff's rights under Title IV of the Act and further, it has breached its duty of fair representation of him regarding the entire matter of the conduct of the election and the post election investigation.

22. The Defendant Secretary and the Defendant Union are acting in an arbitrary and capricious manner in failing to extend the period to file suit to enable the plaintiff to inquire into the reasoning of the Defendant Secretary.

WHEREFORE, plaintiff prays for judgment as follows:

(a) That the Court declare the actions of the Defendant Secretary to be arbitrary and capricious and order him to file suit to set aside the aforesaid election.

(b) That the Court direct the Defendant Secretary and the Defendant USWA to extend the period of time for filing suit to enable the plaintiff to properly inquire into the reasoning of the Secretary.

(c) That the Court direct the Defendant Secretary to make available for examination by the plaintiff all evidence it has obtained concerning its investigation of the aforesaid election.

(d) Award such costs and counsel fees as may be appropriate.

(e) Grant such other relief as may be appropriate.

/s/Kenneth J. Yablonski
KENNETH J. YABLONSKI,
Attorney for Plaintiff.

COMMONWEALTH OF PENNSYLVANIA }
County of } *ss:*

Before me, the undersigned authority, personally appeared WALTER BACHOWSKI, who, being sworn according to law, deposes and says that the statements contained in the foregoing COMPLAINT are true and correct to the best of his knowledge, information and belief.

/s/Walter Bachowski
WALTER BACHOWSKI.

Sworn to and subscribed before me this 8th day of Nov., 1973.

/s/MELNA ZETZ,
Notary Public.

Commission Expires 5/27/76.

Supreme Court of the United States

No. 74–466

PETER J. BRENNAN, SECRETARY OF LABOR, PETITIONER

v.

WALTER BACHOWSKI

Order Allowing Certiorari

Filed December 16, 1974

The petition herein for a writ of certiorari to the United States Court of Appeals for the Third Circuit is granted.

U.S. GOVERNMENT PRINTING OFFICE: 1975